

IT 95-19  
Tax Type: INCOME TAX  
Issue: Non-Filer (Income Tax)

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE HEARINGS DIVISION  
CHICAGO, ILLINOIS

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THE DEPARTMENT OF REVENUE      )  
OF THE STATE OF ILLINOIS      )  
                                )   Docket No.:  
      v.                        )   FEIN or SSN:  
                                )  
XXXXXX,                        )   Harve D. Tucker,  
Taxpayer                       )   Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: XXXXX, Attorney

SYNOPSIS: This case involves the taxpayer's liability for Illinois income tax for the taxable year ended 12/31/91 and for penalties pursuant to 35 ILCS 5/1001, 5/1005 and 5/804.

FINDINGS OF FACT:

1. The Department of Revenue received information from the Internal Revenue Service indicating that for the 1991 taxable year he had filed a U.S. 1040 income tax return reflecting an Illinois address.

2. The Department of Revenue records indicated that the taxpayer had not filed an Illinois income tax return for the taxable year ended 12/31/91.

3. The taxpayer was a resident of Florida during 1991.

CONCLUSIONS OF LAW: "An individual who is absent from Illinois for one year or more will be presumed to be a nonresident of Illinois." 86 Ill.Admin.Code Sec. 100.3020(f).

The taxpayer lives in Colorado and did not appear at the hearing, but provided the Administrative Law Judge with statements, an affidavit and documentation, sufficient to rebut the prima facie case of the Department

of Revenue. The taxpayer has exhaustively explained that he left Illinois for Florida in 1988 in order to outfit a sailing vessel for six months and to sail 27,000 miles. He had no intention of returning to Illinois, severed all connections with Illinois except for the retention of a mailing address, and has not returned to Illinois except in transit between the East Coast and Colorado.

The taxpayer was not a resident of the State of Illinois and was therefore not subject to the Illinois Income Tax Act for the taxable year ended December 31, 1991.

It is recommended that the Notice of Deficiency be withdrawn.

Harve D. Tucker  
Administrative Law Judge

Date